

Date: 10/08/96

Case No.: 95-CLA-33

In the Matter of:

UNITED STATES DEPARTMENT OF LABOR
Plaintiff

v.

WOLCOTT-MARSHALL, INC., d/b/a
DUNKIN DONUTS (HOLDEN, WEST BOYLSTON,
and WORCESTER, MASSACHUSETTS)
Respondent

DECISION AND ORDER APPROVING CONSENT FINDINGS

Come now the parties in this matter and pursuant to the provisions of the applicable Regulations at 29 CFR Part 18.9, agree to the following Consent Findings:

I.

By notice dated May 2, 1995, pursuant to Section 16(e) of the Fair Labor Standards Act as amended, 29 U.S.C. 216(e), and in accordance with 29 CFR Part 579, a civil money penalty in the amount of \$2,150.00 was assessed against the Respondent, as a result of the employment of seven (7) minors at three (3) locations in seven (7) violations of the child labor provisions of Section 12 of the Act and the Regulations issued thereunder at 29 C.F.R. Part 470.

II.

By letter dated May 16, 1995, Respondent filed a timely exception to the assessed civil money penalty, pursuant to the provisions of 29 U.S.C. 216(e) and 29 CFR 580.6.

III.

Subsequent to the filing of the exception, the Regional Administrator of the Wage and Hour Division, Employment Standards Administration, United States Department of Labor,

by Order of Reference, referred this case to the Chief Administrative Law Judge of the Department, pursuant to the provisions of 29 CFR 580.10.

IV.

Plaintiff alleges and Respondent admits that at all times pertinent hereto, it has been an enterprise engaged in commerce or in the production of goods for commerce within the meaning of Sections 3(r) and 3(s)(2) of the Act, 29 USC 203(r) and 203(s)(2).

V.

Respondent certifies that it is presently in compliance with the provisions of Section 12 of the Act, 29 U.S.C. 212, and the Regulations thereunder as set forth at 29 CFR Part 570, and further affirms that it will continue in compliance therewith.

VI.

Upon reconsideration of the amount of civil money penalties assessed for the employment of the aforementioned minors in this cause, Plaintiff does hereby modify the Notice of Assessment of Civil Money Penalty of May 2, 1995, by amending the amount of the assessment of civil money penalties to the sum of \$1,075.00.

VII.

Respondent hereby withdraws its exception to the assessment of civil money penalties, agrees to accept the modified penalties as final and binding, and agrees to tender payment of the sum of \$1,075.00 in aforesaid modified penalties to Plaintiff in five (5) consecutive monthly payments of \$215.00 each, due and payable on the last business day of each such month according to the installment schedule set forth below.

PAYMENT SCHEDULE

October 31, 1996	\$215.00
November 30, 1996	\$215.00
December 31, 1996	\$215.00
January 31, 1997	\$215.00
February 28, 1997	\$215.00
<u>TOTAL</u>	\$1,075.00

In the event that the payment by Respondent of any single installment is more than fifteen (15) days late, the amended penalty of \$1,075.00 is thereby voided, and the parties agree that payment of the original proposed penalty of \$2,150.00 plus interest at six percent (.06%) per annum from the date of any final order based upon these Consent findings, will become immediately then due and owing, less any amounts already paid by Respondent.

VIII.

Any Order entered in this cause in accordance with these Consent Findings shall, pursuant to 29 CFR 18.9(b)(1), have the same force and effect as an Order entered herein after a full hearing of the matter.

IX.

The entire record upon which any Final Order may be based shall, pursuant to 29 CFR 18.9(b)(2), consist of the Notice of Assessment of Civil Money Penalty, as modified herein, and these Consent Findings.

X

The signing of these Consent Findings waives any claim either party has to costs and/or attorney fees.

XI.

All further procedural rights provided by 29 CFR Part 580, and any rights to contest the validity of these Consent Findings or any Order issued pursuant hereto are hereby waived as provided by 29 CFR 18.9 §§ (b)(3) and (b)(4).

XII.

Respondent's consent to the entry of a final order pursuant to these Consent Findings shall not constitute an admission by Respondent of violations of the Act in any proceedings other than proceedings brought directly under the provisions of the Act or pertinent regulations thereunder, including but not limited to, any penalties proposed by the Secretary under the provisions of the Act or aforesaid pertinent regulations.

This Administrative Law Judge, having reviewed the Consent Findings, concludes that this settlement is in the best interests of all of the parties and it is therefore **ORDERED** that the settlement agreement shall be, and the same hereby is **APPROVED** pursuant to the provisions of 29 CFR § 18.9(d).

DAVID W. DI NARDI
Administrative Law Judge

Dated:
Boston, Massachusetts
DWD:gcb

